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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,547	03/02/2001	Roger De Lathouwer	COL202	3745

7590

07/03/2003

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EXAMINER

MAI, TRI M

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 07/03/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/786,547

Applicant(s)

DE LATHOUWER, ROGER

Examiner

Tri M. Mai

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-23, 26-36 and 42-44 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 15-23, 26-36 and 42-44 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

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DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the lateral faces being flatten in claims 42-43 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Objections

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

It seems that claims 34-36 are meant to be canceled by the amendment. Please confirm.

Misnumbered claims 34-36 been renumbered 42-44 respectively.

Claim Rejections - 35 USC § 112

3. Claims 15-23, 26-36, and 42-44 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the

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claimed invention. The original specification fails to describe “peripheral frame” and the suitcase is “substantially achieved” by two tubes. Furthermore, the original specification fails to teach the lateral faces can be flattened while regaining their form as soon as the pressure ceases. This is a new matter rejection.

4. Claims 15-23, 26-36, and 42-44 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 15, 43, it is unclear what is meant by “peripheral” frame. The specification fails to describe what it is.

In claim 19, “such being” is narrative and indefinite.

In claim 19, “the curved form” has no antecedent basis.

In claim 21, “the upper face” has no antecedent basis.

In claim 22, the claim defines “Vertical suitcases”. However, the body recites “the suitcase”. It is unclear whether one suitcase is intended. Furthermore, it is unclear which one of “the suitcases” is being referred to.

In claim 22, “the first face” has no antecedent basis.

In claim 26, “the lower surface face thereby achieving a rigidification of the suitcase” is narrative. Furthermore, the recitation is inaccurate, i.e, the rigidification of the suitcase is not achieved by the pair of tubes alone; the loops also contribute to the rigidification of the suitcase.

In claim 29, it is unclear what comprises the “central part”.

In claims 42-43, it is unclear how can the lateral faces can be flattened. It seems impossible for the lateral faces to be flattened.

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Claim Rejections - 35 USC § 103

5. Claims 15, 17, 18, 19, 26, 27, 28, 29, 30, 33-36, and 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers (DE 19525571) in view of Workman (4784248). Myers teaches a luggage having two tubes 108 joining a lower part 64 and an upper part 62. The upper and lower parts are made from plastic.

With respect to the hoop, Workman teaches that it is known in the art to provide elastic hoop for a luggage formed by piping 22 and 34. It would have been obvious to one of ordinary skill in the art to provide elastic hoop in Myers as taught by Workman to provide the desired support for the fabric material.

With respect to the “peripheral frame”, the suitcase in Myers does not have a peripheral frame, i.e., the term “peripheral” refers to the circumscribing frame; portions 66 are not “peripheral” frames, because they do not circumscribe the luggage.

Regarding claim 19, the lower surface part has a curved portion at portion 92 imposed by the curved extremities of the tubes (the tubes being rounded).

Regarding claim 26, the two tubes 108 provide rigidification, at least some, of the luggage. Furthermore, the claim do not exclude the presence of the two panels 66.

6. Claims 15, 17, 18, 19, 26, 27, 28, 29, 30, 33-36, and 42-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers (DE 19525571) in view of Workman (4784248), and further in view of Rekuc et al. (5431262). To the degree it is argued that the two portions 66 in Myers are the peripheral frame, Rekuc teaches that it is known in the art to eliminate the peripheral frame support the luggage only by the upper and lower parts, i.e., “The assembly of top and bottom rigid members and extrusions thus thus provide a rigid frame structure which

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maintain the shape of the case alone or in conjunction with a stiff back.” (col. 3, lines 10-14).

It would have been obvious to one of ordinary skill in the art to eliminate the two portions 66 in Myers as taught by Rekuc to save material.

7. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Myers rejections, as set forth in paragraph 3 and 4, and further in view of Krenzel. The Myers combinations meet all claimed limitations except for the plastic being semirigid plastic. Krenzel teaches that it is known in the art to make a luggage from semirigid plastic. It would have been obvious to one of ordinary skill in the art to make a luggage from semirigid plastic in either Myers combinations as taught by Krenzel to provide the desired plastic.

8. Claims 20, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myers rejections, as set forth in paragraph 3 and 4, and further in view of Browning. The Myers combinations meet all claimed limitations except for the plastic being polyethylene. Browning teaches that it is known in the art to make a luggage from polyethylene. It would have been obvious to one of ordinary skill in the art to make a luggage from polyethylene in either Myers combinations to provide an alternative material for the luggage.

9. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Myers rejections, as set forth in paragraph 3 and 4, and further in view of Kotkins (3185271). The Myers combinations meet all claimed limitations except for the upper part does not support at least a front part of the upper surface of the suitcase. Kotkins teaches that it is known in the art to provide an upper surface 13 that does not support at least a front part of the upper face of the suitcase. It would have been obvious to one of ordinary skill in the art to provide an upper

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surface that does not support at least a front part of the upper face of the suitcase in either Myers combinations as taught by Kotkins to save material and/or to provide an alternative opening.

10. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Myers rejections, as set forth in paragraph 3 and 4, and further in view of King. The Myers combinations meet all claimed limitations except for the tubes 108 and the lower part 64 are attached by rivets. King teaches that it is known in the art to attach parts of a luggage by rivets. It would have been obvious to one of ordinary skill in the art to attach the tubes 108 to the lower part 64 by rivets in either Myers combinations as taught by King to keep the various parts secured.

Response to Arguments

11. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

12. In view of the 112 matters as set forth above, the allowability of claims 22-23, 32 cannot be determined at this time.

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37


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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W Young can be reached on (703)308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

Tri M. Mai 
Primary Examiner
Art Unit 3727

June 30, 2003